IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 363/2005
(Davendra Singh Vs. State of Rajasthan & Ors.)

Date of Order : 19/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.S.Shekhawat for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Devendra Singh Dev for the non-petitioners.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 07.1.2005 passed by Additional Sessions Judge, No.2, Bikaner (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 28.11.2003 passed by Judicial Magistrate No.3, Bikaner (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by both the courts below as also the statements of witnesses recorded by the trial court more particularly the statement of AW-1 Suman.

It is contended by learned counsel for the petitioner that monthly allowance of maintenance granted in favour of non-petitioners is excessive.

It has not been disputed that non-petitioner No.2 is legally wedded wife of the petitioner and non-petitioners No.3 and 4 son and daughter, have born out of the wedlock from the loin of the petitioner. In cross-examination to the witness AW-1 Suman, the petitioner came with a case by giving suggestion to witness that he is earning Rs. 18,000/- per month. That shows that the case of the petitioner is that he is earning Rs. 18,000/- per month.

Both the courts below relying on the evidence of the parties, more particularly suggestion given by the petitioner with regard to his income to be Rs. 18,000/- per month, granted monthly allowance of maintenance in favour of non-petitioner No.2 @ Rs. 2000/- and in favour of non-petitioners No. 3 and 4 @ Rs. 1000/- each. In my view, looking to the earning of the petitioner and keeping in view the status of the family, a sum of Rs. 4000/- in all granted as monthly allowance of maintenance in favour of three persons, cannot be said to be in any manner erroneous or excessive. In the circumstances, therefore, no case for interference in the inherent jurisdiction is made out. It

cannot be said that the orders impugned would result in serious miscarriage of justice and abuse of process of the Court.

The petition has no force and it is therefore, dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

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